

Exhibit A



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

NETLIST, INC.

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD, et al.

Defendants.

Civil Case No. 2:22cv-00293-JRG
(Lead Case)

JURY TRIAL DEMANDED

NETLIST, INC.

Plaintiff,

v.

MICRON TECHNOLOGY TEXAS, LLC, et al.

Defendants.

Civil Case No. 2:22cv-00294-JRG
(Member Case)

JURY TRIAL DEMANDED

**DECLARATION OF DANIEL A. TISHMAN IN SUPPORT DEFENDANTS
SAMSUNG'S MOTION TO COMPEL PRODUCTION OF TESTIMONY
FROM NETLIST'S PRIOR LITIGATIONS AGAINST SK HYNIX**

I, Daniel A. Tishman, am an attorney at the firm of Fish & Richardson P.C., counsel of record for Samsung. I make this declaration in support of Samsung's Motion to Compel Production of Testimony from Netlist's Prior Litigations Against SK hynix.

The following is true and correct to the best of my knowledge and belief:

1. Netlist filed a complaint at the ITC on September 26, 2016, accusing SK hynix's DDR4 LRDIMM and RDIMM products of infringing U.S. Patent No. 8,756,364.
2. Netlist has produced a Strategic Product Supply and License agreement between Netlist and SK hynix from April 5, 2021, which included a license to [REDACTED]

[REDACTED]
[REDACTED] including the patents asserted in this case.

3. In this case, Netlist identified Mr. Chuck Hong and Ms. Gail Sasaki as knowledgeable individuals in its initial disclosures, served on December 8, 2022. According to the publicly-available Initial Determination from the ITC, Mr. Hong and Ms. Sasaki both offered testimony during the ITC investigation.

4. On August 28, 2023, during a meet and confer, Netlist represented that it would produce the same categories of testimony that it was ordered to produce by Judge Payne in its case against Micron.

5. On August 29, 2023, Netlist sent Samsung an email stating it would “offer to produce the same materials as a compromise if Samsung agrees to not seek or move to compel production of the remaining materials (e.g. filings, document productions, transcripts, contentions, written discovery) from litigations/IPRs between Netlist and SK hynix either from Netlist or a third party consistent with the Court’s ruling.”

6. On September 18, 2023, Netlist sent Samsung an email stating, “[p]lease confirm Samsung will withdraw its subpoena on SK hynix and requests for other documents relating to the prior SK hynix litigations. If so, Netlist agrees to produce the deposition transcripts as a compromise.”

7. According to a publicly-available transcript, during the hearing on May 9, 2017, in ITC Inv. No. 337-TA-1023, Mr. Noel Whitley testified that “[u]nder the JDLA, Samsung received a license to all of Netlist’s patents covering LRDIMMs and RDIMMs.”

8. On August 7, 2023, Samsung sent Netlist a letter, which requested certain confidential filings from Netlist’s prior litigations:

Netlist has also failed to produce documents from its prior litigations involving the same or related patents, including confidential pleadings regarding (non)infringement, confidential briefing and orders regarding claim construction; confidential pre- and post-hearing briefing; confidential appellate briefing; as well as confidential versions of hearing and trial transcripts—as requested in at least paragraphs 23 and 32 of my July 14, 2023 letter. For example, in the table on the following page, Samsung identifies specific confidential materials from cases involving related patents (i.e., patents in the same patent family as the patents-in-suit).

The letter including a chart requesting specific confidential docket entries.

Signed in Washington, DC, under penalty of perjury, this 21st day of September 2023.

/s/ Daniel A. Tishman